

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

5649-905

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on December 7, 2006Signature Typed or printed name Amelia Tauchen

Application Number

10/008,700

Filed

12/07/2001

First Named Inventor

Hong-Sik Jeong

Art Unit

2818

Examiner

Chuong A. Luu

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 42,011
Registration number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

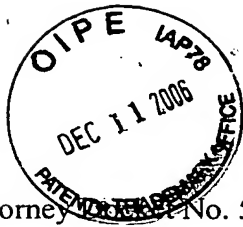

SignatureD. Scott Moore
Typed or printed name919-854-1400
Telephone numberDecember 7, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Attorney No. 5649-905

**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE--EXAMINING GROUP 2818**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Hong-Sik Jeong et al.

Serial No.: 10/008,700

Filed: December 7, 2001

For: METHODS OF MANUFACTURING INTEGRATED CIRCUIT DEVICES
HAVING AN ENCAPSULATED INSULATION LAYER

Confirmation No.: 5150

Group Art Unit: 2818

Examiner: Chuong A. Luu

Date: December 7, 2006

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Certificate of Mailing under 37 CFR § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 7, 2006.


Amelia Tauchen

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which have been extended indefinitely

A petition for a one-month extension of time is filed herewith. If any fee or further extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed July 7, 2006 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Applicants respectfully submit that the rejection of the currently pending claims is clearly erroneous because many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein and in Applicants' previously filed responses of April 18, 2006 and September 16, 2005, for example. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicant will only discuss the recitations of independent Claims 6 and 15.

Independent Claims 6 and 15 are Patentable

Independent Claim 6 stands rejected under 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 6,078,073 to Habu et al. (hereinafter "Habu"). (Final Action, page 2).

Independent Claim 6 recites, in part:

...
forming a pattern comprising a pair of mesa regions on a substrate;
forming a first insulating layer on the pair of mesa regions;
forming a second insulating layer on the pair of mesa regions and the substrate;
forming a capping layer on the second insulating layer;
patterning the capping layer and the second insulating layer together such that parts of the first insulating layer that were covered by the second insulating layer are exposed without exposing the mesa regions under the first insulating layer;
... (Emphasis added.)

Independent Claim 15 includes recitations similar to those of Claim 6 reproduced above.

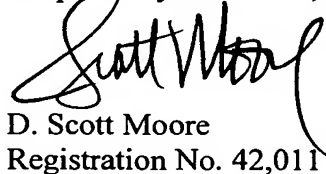
The Office Action alleges that the insulating film 4 and the insulating layer 7 shown in FIGS. 7A and 7B of Habu correspond to the second insulating layer and the capping layer recitations of Claim 6, respectively. (Final Action, pages 2 and 3). The Final Action further asserts that Habu illustrates patterning the insulating film 4 and the insulating layer 7 together in FIG. 7C. (Final Action, page 3).

Applicants respectfully disagree that Habu teaches patterning the insulating film 4 and the insulating layer 7 together as alleged in the Final Action. As shown in FIG. 7C, the insulating film 4 is not patterned when the insulating layer 7 is patterned. In fact, Habu teaches that the insulating film 4 is patterned initially as part of forming the gate electrode 2 (Habu, col. 9, lines 1 - 9) and is specifically designed so as not to be patterned when the insulating layer 7 is patterned later. (Habu, col. 15, lines 4 - 25).

Moreover, independent Claims 6 and 15 further state that the "parts of the first insulating layer that were covered by the second insulating layer are exposed" when the capping layer and second insulating layer are patterned together. The Final Action alleges that the oxide film 3 corresponds to the first insulating layer. (Final Action, page 2). Applicants respectfully submit, however, that when the insulating film 4 (alleged to correspond to the second insulating layer) is patterned, that no portion of the oxide film 3 that was covered by the insulating film 4 is exposed. This is illustrated, for example, in FIG. 3A of Habu. At col. 9, lines 1 - 9, Habu explains that the insulating film 4 and the oxide film 3 are patterned together to form the gate electrode 2. Once the gate electrode 2 is initially formed, no portion of the oxide film 3 is exposed. Habu explains that a sidewall oxide 3' may then be formed on the side surface of the gate electrode. (Habu, col. 9, lines 4 - 7). In sharp contrast with the recitations of Claims 6 and 15, however, the sidewall oxide 3' was not previously covered by the insulating film 4.

Accordingly, for at least the foregoing reasons, Applicants respectfully request that the present application be reviewed and that the rejection of independent Claims 6 and 15 be reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,



D. Scott Moore
Registration No. 42,011

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401